



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/781,314      | 02/17/2004  | Youzhi E. Xu         | 42390P13563D        | 4855             |

7590  
Michael A. Bernadicou  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP  
Seventh Floor  
12400 Wilshire Boulevard  
Los Angeles, CA 90025

05/15/2008

EXAMINER

FISCHER, JUSTIN R

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

05/15/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Art Unit: 1791

**Continuation of 3 and 11:** Applicant's statement of common ownership is not considered timely since it was not submitted prior to the final rejection (MPEP 716.01), it being noted that the relevant reference was initially used over 18 months ago without any statement until the reply filed May 9, 2008. In particular, the relevant portion of the MPEP states that "affidavits and declarations submitted under CFR 1.132 and other evidence traversing rejections are considered timely if submitted: (1) prior to final rejection...". In this instance, applicant's statement represents evidence that traverses a pending rejection and thus, the submission after the final rejection is not timely.

Justin Fischer

/Justin R Fischer/

Primary Examiner, Art Unit 1791